

## CCRB INVESTIGATIVE RECOMMENDATION

|   |                                     |  |  |                                    |                                 |
|---|-------------------------------------|--|--|------------------------------------|---------------------------------|
| Investigator:<br>Hannah Sampson                   | Team:<br>Squad #07                  | CCRB Case #:<br>201901685                  | <input type="checkbox"/> Force                         | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|   |                                     |  | <input checked="" type="checkbox"/> Abuse              | <input type="checkbox"/> O.L.      | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Sunday, 02/24/2019 5:30 PM    | Location of Incident:<br>§ 87(2)(b) | 18 Mo. SOL<br>4/10/2021                    | Precinct:<br>81  |                                    |                                 |
| Date/Time CV Reported<br>Sun, 02/24/2019 10:59 PM | CV Reported At:<br>CCRB             | How CV Reported:<br>Call Processing System | Date/Time Received at CCRB<br>Sun, 02/24/2019 10:59 PM |                                    |                                 |

| Complainant/Victim | Type       | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b)  | § 87(2)(b)   |
| § 87(2)(b)  | § 87(2)(b)   |

| Subject Officer(s)       | Shield | TaxID  | Command |
|--------------------------|--------|--------|---------|
| 1. POM Anthony Torres    | 09832  | 936087 | 081 PCT |
| 2. POF Emily Harris      | 20669  | 941882 | 081 PCT |
| 3. SGT Hilton Jeanpierre | 01205  | 941954 | 081 PCT |

| Officer(s)              | Allegation  | Investigator Recommendation |
|-------------------------|---|-----------------------------|
| A.POM Anthony Torres    | Abuse: Police Officer Anthony Torres entered § 87(2)(b) in Brooklyn.                    | § 87(2)(b)                  |
| B.POF Emily Harris      | Abuse: Police Officer Emily Harris entered § 87(2)(b) in Brooklyn.                      | § 87(2)(b)                  |
| C.SGT Hilton Jeanpierre | Abuse: Sergeant Hilton Jeanpierre entered § 87(2)(b) in Brooklyn.                       | § 87(2)(b)                  |
| D.POF Emily Harris      | Abuse: Police Officer Emily Harris searched § 87(2)(b) in Brooklyn.                     | § 87(2)(b)                  |
| E.SGT Hilton Jeanpierre | Abuse: Sergeant Hilton Jeanpierre failed to provide § 87(2)(b) with a business card.    | § 87(2)(b)                  |
| F.POF Emily Harris      | Abuse: Police Officer Emily Harris failed to provide § 87(2)(b) with a business card.   | § 87(2)(b)                  |
| G.POM Anthony Torres    | Abuse: Police Officer Anthony Torres failed to provide § 87(2)(b) with a business card. | § 87(2)(b)                  |
| § 87(2)(g), § 87(4-b)   | § 87(2)(b)  | § 87(2)(b)                  |

### Case Summary

On February 24, 2019, § 87(2)(b) filed this complaint with the CCRB using the Call Processing System [BR 01].

On February 24, 2019, at 6:59 p.m., officers from the 81<sup>st</sup> precinct including Sgt. Hilton Jean-Pierre, PO Anthony Torres, and PO Emily Harris (who is currently assigned to the Promotion Unit for promotion to sergeant) went to § 87(2)(b) apartment at § 87(2)(b) in Brooklyn to arrest her children, § 87(2)(b) and § 87(2)(b). PO Torres, PO Harris, and Sgt. Jean-Pierre entered § 87(2)(b) apartment (**Allegations A, B, and C: Abuse of Authority**, § 87(2)(g)). PO Harris then searched § 87(2)(b) apartment for § 87(2)(b) and § 87(2)(b) (**Allegation D: Abuse of Authority**, § 87(2)(g)). Sgt. Jean-Pierre, PO Torres, and PO Harris did not provide § 87(2)(b) with a business card (**Allegations E, F, and G: Abuse of Authority**, § 87(2)(g), § 87(4-b)).

BWC footage recorded by PO Torres [BR 02] and PO Naisha McDuffie [BR 03], also of the 81<sup>st</sup> Precinct, captures portions of the officers' interaction with § 87(2)(b).

### Findings and Recommendations

**Allegation A – Abuse of Authority: Police Officer Anthony Torres entered** § 87(2)(b) **in Brooklyn.**

**Allegation B – Abuse of Authority: Police Officer Emily Harris entered** § 87(2)(b) **in Brooklyn.**

**Allegation C – Abuse of Authority: Sergeant Hilton Jean-Pierre entered** § 87(2)(b) **in Brooklyn.**

**Allegation D – Abuse of Authority: Police Officer Emily Harris searched** § 87(2)(b) **in Brooklyn.**

It is undisputed that Sgt. Jean-Pierre, PO Torres, and PO Harris received a job for an assault and that after speaking with the victims, that the victims identified § 87(2)(b) and § 87(2)(b) as the perpetrators, and that Sgt. Jean-Pierre, PO Torres, and PO Harris went to § 87(2)(b) apartment to arrest § 87(2)(b) and § 87(2)(b). It is further undisputed that the officers entered § 87(2)(b) apartment without her consent and that PO Harris searched the apartment without her voluntary consent.

Event # § 87(2)(b) was generated at 5:24 p.m. when a female called 911 and alleged that they were jumped by four people. She identified the perpetrators as § 87(2)(b) and § 87(2)(b). As per BWC footage recorded by PO Jason Gray of the 81<sup>st</sup> Precinct [BR 05], the first officers began interviewing the complaining party at 5:29 p.m. BWC footage recorded by PO Bendel Jupiter [BR 06], also of the 81<sup>st</sup> Precinct, shows that Sgt. Jean-Pierre interviewed the victim of the alleged assault, § 87(2)(b) at 6:33 p.m.

BWC footage recorded by PO Torres [BR 02] shows that at 6:59 p.m., PO Torres, Sgt. Jean-Pierre, PO Harris, and PO McDuffie knocked on § 87(2)(b) door for approximately one minute before she opened it. When § 87(2)(b) opened the door, she opened it roughly halfway. PO Torres asked § 87(2)(b) if § 87(2)(b) or § 87(2)(b) were home and § 87(2)(b) responded that they were not. PO Torres then asked if the officers could “check” and § 87(2)(b) responded that they needed a search warrant. PO Torres replied that they did not need a search warrant. The footage shows that during this exchange, PO Torres appears to be standing

over the threshold of the apartment door, standing partially inside the apartment. PO McDuffie's BWC footage [BR 03] also suggests that PO Torres is standing over the threshold of the apartment and shows that he held the door to § 87(2)(b) apartment open by leaning against it with his back.

PO Torres's footage shows that after § 87(2)(b) said that the officers needed a search warrant, Sgt. Jean-Pierre intervened and asked § 87(2)(b) if § 87(2)(b) and § 87(2)(b) live in the apartment. § 87(2)(b) responded that they do not live there and said she did not know where they live. She then re-iterated that § 87(2)(b) and § 87(2)(b) were not present and that she was not obligated to answer any more of the officers' questions. PO Harris then began to mention "DIRs" (Domestic Incident Reports). However, § 87(2)(b) interrupted her and re-iterated that § 87(2)(b) and § 87(2)(b) were not there. Sgt. Jean-Pierre then explained that there were allegations that § 87(2)(b) and § 87(2)(b) "jumped" or got into a fight with someone, that a report was generated, that the report would be sent to the detective squad for them to investigate, and that someone would have to answer to the allegations. PO Harris then asked § 87(2)(b) "Can I speak to you?" § 87(2)(b) gestured towards PO Harris and said, "I know her" and added that she wanted to speak to PO Harris before anyone else. PO Harris began explaining to § 87(2)(b) that there were "two sides to every story" and that she would not want the detective squad to only hear one side of what happened. § 87(2)(b) then said she wanted to know why the accusers filed the reports when they were all on camera coming into her apartment. She also said that based on their initial allegations, everyone was going to go to jail. PO Harris then asked § 87(2)(b) twice, "Do you mind if I walk in?" while simultaneously stepping into the apartment. § 87(2)(b) did not respond to or acknowledge PO Harris's requests to enter the apartment and repeatedly said, "Why would I go to jail?" as PO Harris walked towards her. § 87(2)(b) backed up as PO Harris ushered her into another room of the apartment. § 87(2)(b) then walked with PO Harris into the living room of the apartment. As PO Harris walked into the living room with § 87(2)(b) Sgt. Jean-Pierre said, "Harris don't go in too deep." PO Torres then followed PO Harris to the living room. Once in the living room, PO Harris told § 87(2)(b) that the reason she walked into the apartment was because she "did not want to have an exchange between everyone inside and outside of the location." § 87(2)(b) responded, "You're welcome in here anytime, I know you. I'm just saying that they're not here." PO Harris asked § 87(2)(b) if she could check the apartment to make sure everything was safe. § 87(2)(b) replied that she did not want anyone walking through her house and again said that § 87(2)(b) and § 87(2)(b) were not there. PO Harris then asked § 87(2)(b) again, "Do you mind if I just take a look?" to which § 87(2)(b) replied, "No, I do mind." PO Harris told § 87(2)(b) that she could walk through the house with PO Harris and PO Torres again asked, "Is she here or not?" At that point, § 87(2)(b) agreed to walk PO Harris through the apartment. During this exchange, an individual walked out of the apartment. Sgt. Jean-Pierre caught the door from closing and stood against the door, appearing to straddle the threshold of the apartment with one foot in § 87(2)(b) apartment. § 87(2)(b) led PO Harris around the apartment. PO Harris did not find § 87(2)(b) or § 87(2)(b) and the officers left the apartment.

§ 87(2)(b) was interviewed at the CCRB on March 12, 2019 [BR 07]. Her statement was somewhat consistent with the BWC footage. She stated that when the officers knocked on her door, she opened the door partially, such that only her body was visible. An officer asked § 87(2)(b) where § 87(2)(b) and § 87(2)(b) were and § 87(2)(b) said she did not know. At that point, § 87(2)(b) tried to close the door and told the officers that they did not have a search warrant. Then an officer, identified by the investigation as PO Torres, put his foot in the door and

told her that they did not need a search warrant. After PO Torres put his foot in the door, § 87(2)(b) opened the door all the way because she was “pissed” at the officers. § 87(2)(b) told PO Torres that he could not put his foot in her doorway and said that she did not have to let them into her house. An officer, known to § 87(2)(b) as PO Harris, told § 87(2)(b) to let her in. PO Harris also said that § 87(2)(b) knows her and to let her in because if she did not let her in, then the officers would keep coming back and § 87(2)(b) would not want that. § 87(2)(b) again told them that they did not have a search warrant. PO Harris responded, “Believe me, they’re going to keep coming back.” § 87(2)(b) felt this was an “indirect threat” and was scared because she did not want the officers to do something to her. § 87(2)(b) then allowed PO Harris in by saying, “Come on, I’m just going to let her in. You guys stay there.” PO Harris entered her apartment and used her flashlight to look around the house. § 87(2)(b) opened the door to § 87(2)(b) bedroom and said, “See? He’s not here.” PO Harris glanced into § 87(2)(b) room from the hallway and then kept walking. She walked passed another bedroom and then looked in the bathroom before leaving.

PO Torres was interviewed on June 28, 2019 [BR 08]. He stated that he and his partner, Sgt. Jean-Pierre, responded to the assault job referenced above. Upon speaking with the officers on scene, PO Torres gathered that an individual, identified by the investigation as § 87(2)(b), alleged that he was assaulted during a family dispute inside § 87(2)(b) apartment, located at § 87(2)(b). The complainants informed Sgt. Jean-Pierre that the perpetrators of the assault, § 87(2)(b) and § 87(2)(b) live in § 87(2)(b) apartment. Sgt. Jean-Pierre told PO Torres that they were going to go to § 87(2)(b) apartment to look for § 87(2)(b) and § 87(2)(b). PO Torres estimated that they spoke to the complainants for approximately 20 minutes before going to § 87(2)(b) apartment. PO Torres, Sgt. Jean-Pierre, PO Harris, and PO McDuffie went to § 87(2)(b) apartment with the intention to arrest § 87(2)(b) and § 87(2)(b). PO Torres knocked on the apartment door several times but there was no answer. The officers knew they were looking for one male and one female and could hear male and female voices inside the apartment. However, PO Torres did not know who the voices belonged to and could not clearly make out what the individuals were saying to one another. The voices did not sound like cries for help.

PO Torres knocked on § 87(2)(b) door again, this time using the corner of his department cell phone. At that time, § 87(2)(b) opened the door “pretty wide,” possibly fully open. PO Torres was standing right at the “crack” of the door and was standing on the threshold/frame of the apartment door. PO Torres denied that any part of his body was holding § 87(2)(b) door open and denied that he had his foot or back against the door. From his vantage point at the threshold of the door, PO Torres could not see who was in the apartment. The officers asked § 87(2)(b) if they could speak to her but she was angry and told them that they needed a warrant. PO Torres informed her that they did not need a warrant because they just wanted to speak to her. Sgt. Jean-Pierre then took over and told § 87(2)(b) that an incident took place and that they wanted to know if § 87(2)(b) and § 87(2)(b) were inside the apartment. § 87(2)(b) said, “No” and was upset that there were several officers at her door. PO Harris calmed § 87(2)(b) down by telling her about the alleged situation and by telling her that they just wanted to check and see if § 87(2)(b) and § 87(2)(b) were in the apartment. At first, § 87(2)(b) went “on and on” about how § 87(2)(b) and § 87(2)(b) were not there and that she did not want the officers to come inside and check her apartment. However, after going back and forth for some time with PO Harris, and given their rapport with one another, § 87(2)(b) allowed them to enter the apartment and said, “Yes, you can come in and check.” PO Torres did

not recall § 87(2)(b) providing any nonverbal consent in tandem with her statement. At this point, PO Harris stepped into the apartment alone. Initially, PO Torres remained at the threshold of the door. However, Sgt. Jean-Pierre instructed PO Torres not to let PO Harris go in alone, so PO Torres followed PO Harris into the apartment. § 87(2)(b) told PO Torres that she did not want him to enter and PO Torres relayed this to Sgt. Jean-Pierre. However, Sgt. Jean-Pierre told PO Torres to go in to ensure PO Harris's safety. PO Torres did not believe § 87(2)(b) attempted to close the door at any point and said that she was free to close the door and end the conversation with the officers any time.

Once inside, PO Harris explained to § 87(2)(b) why they were there and asked if she could check the apartment for § 87(2)(b) and § 87(2)(b). PO Torres stood in the area near the living room. § 87(2)(b) "finally" agreed to the search by saying, "Fine" and telling PO Harris to check the apartment. PO Harris went down the hallway and checked all the rooms for § 87(2)(b) and § 87(2)(b). PO Torres volunteered that § 87(2)(b) did not really want the officers in her apartment and figured she let them in just to get them to leave.

PO Torres was shown the portion of PO McDuffie's BWC footage referenced above. He agreed that it appeared as though his back was against § 87(2)(b) door. PO Torres said he stood this way because he, Sgt. Jean-Pierre, and PO Harris could not all fit at the threshold. He denied that he had any intention of holding her door open when he took this action. PO Torres did not recall if he stepped over the threshold of the apartment during this time. PO Torres also reviewed his BWC video referenced above. He stated that § 87(2)(b) consented to PO Harris entering the apartment because she backed up to allow her to enter. PO Torres acknowledged that he may have stepped slightly over the threshold during this time because PO Harris was already entering the apartment. He stated that when Sgt. Jean-Pierre said, "Don't go in too deep," he interpreted this as an instruction for PO Torres to follow PO Harris further into the apartment to ensure her safety. PO Torres added that it is unsafe for one officer to go into an apartment alone and said he learned from training that officers always enter apartments together. PO Torres clarified that the verbal consent he described in his initial statement referred to § 87(2)(b) giving verbal consent for PO Harris to search the apartment.

PO Harris was interviewed on August 14, 2019 [BR 09]. She acknowledged knowing § 87(2)(b) from past encounters but did not recall this incident. PO Harris reviewed PO Torres's BWC footage referenced above but maintained that she did not have any independent recollection of the encounter. Therefore, she did not recall why she entered the apartment. However, she pointed out that the footage shows her telling § 87(2)(b) that she entered the apartment because she did not want an exchange going on between the individuals inside and outside the residence. She also highlighted that § 87(2)(b) later told PO Harris that she was welcome in her apartment. PO Harris could not provide any explanation of why she did not leave the apartment after § 87(2)(b) told her twice that she did not want any officers to search her apartment. However, PO Harris noted that § 87(2)(b) subsequently gave her a "guided tour" of the apartment.

Sgt. Jean-Pierre was interviewed at the CCRB on September 27, 2019 [BR 10]. He initially said that he had no recollection of this incident. However, upon reviewing the Event above, he stated that he was assigned as Desk Sergeant when he received a call requesting that a supervisor respond to § 87(2)(b). Sgt. Jean-Pierre responded to the location and spoke to a black female. He did not recall anything more about the female or what they discussed. Sgt. Jean-Pierre was shown a photo of § 87(2)(b) and said that she did not look familiar. Aside from speaking with a black female, Sgt. Jean-Pierre did not recall anything else about this

incident. He was shown a portion of the BWC footage recorded by PO Jupiter that captures Sgt. Jean-Pierre interviewing § 87(2)(b) about the alleged assault involving § 87(2)(b) and § 87(2)(b). There is a black female in the background who Sgt. Jean-Pierre identified as the black female he recalled speaking with. The footage did not prompt any additional recollection of this incident. Sgt. Jean-Pierre was then shown the BWC footage recorded by PO Torres (referenced above). He maintained that he did not have an independent recollection of the incident, but denied that he gave any instruction for PO Torres to follow PO Harris into the apartment out of concern for PO Harris's safety. However, safety concerns did arise when PO Harris entered the apartment because the officers did not know who was in the apartment or what § 87(2)(b) was capable of. Sgt. Jean-Pierre acknowledged that stood with one foot over the threshold of § 87(2)(b) apartment because, for the safety concerns described, he needed to hold the door open so he could see the officers inside the apartment. He added the door is heavy so if he did not lean against the it, it would have closed.

Payton v. New York, 445 U.S. 573 (1980) [BR 11] states that the right of people to be secure in their houses shall not be violated. The core of the Fourth Amendment stands in the right of a man to retreat into his own home and therefore be free from unreasonable government intrusion. The Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant.

According to People v. Brown, 234 A.D.2d 211 (App. Div. 1996) [BR 12], consent to enter a home may be established by conduct as well as words. The consent can be explicit or implicit.

People v. Gonzalez, 39 N.Y.2d 122 (1976) [BR 13] states that consent is voluntary when it is "a true act of the will, an unequivocal product of an essentially free and unconstrained choice." It further states that "voluntariness is incompatible with official coercion, actual or implicit, overt or subtle."

NYC Administrative Code 14-173, Guidance Regarding Consent Searches [BR 19] states that with respect to obtaining voluntary, knowing, and intelligent consent prior to the search of a person's home, for a search that is based solely on a person's consent to such search, where search is not conducted pursuant to a warrant, warrant exception, or probable cause, such guidance shall specify conduct for 1) articulating, using plain and simple language, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to such search; 2) securing such consent without threats or promises of any kind being made to such person and 4) refraining from conducting search where such consent had not been obtained.

Civilian and officer statements, as well as BWC footage of the incident, shows that the officers relied on consent to enter and search § 87(2)(b) apartment. The footage shows that PO Torres held § 87(2)(b) door open by leaning against it, thus preventing her from closing the door and ending the conversation with the officers. Furthermore, the investigation concluded that, based on PO Torres's positioning relative to the door frame, he was standing over the threshold of § 87(2)(b) apartment as he leaned against the door. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

The footage also shows that PO Harris was already stepping into § 87(2)(b) apartment when she asked, "Do you mind if I walk in?" Although the footage shows that PO

Harris later told § 87(2)(b) that she entered the apartment to avoid having an exchange between § 87(2)(b) and people in the hallway § 87(2)(g). Although § 87(2)(b) told PO Harris that she is welcome in her apartment, she did not say this until after PO Harris was standing in her living room. Moreover, during her CCRB interview, PO Harris did not volunteer any past experiences with § 87(2)(b) that led her to conclude she is always welcome into § 87(2)(b) apartment. § 87(2)(g)

After PO Torres and PO Harris entered the apartment, Sgt. Jean-Pierre caught the door from closing and stood against the door, straddling the threshold of the apartment with one foot in § 87(2)(b) apartment. Although Sgt. Jean-Pierre explained that he stood in that fashion to maintain a visual of his officers in the apartment and ensure their safety, § 87(2)(g)

BWC footage shows that § 87(2)(b) initially denied the officers' multiple requests to search her apartment for § 87(2)(b) and § 87(2)(b) both at the door and after PO Harris entered. § 87(2)(g)

**Allegation E – Abuse of Authority: Sergeant Hilton Jeanpierre failed to provide § 87(2)(b) with a business card.**

**Allegation F – Abuse of Authority: Police Officer Emily Harris failed to provide § 87(2)(b) with a business card.**

**Allegation G – Abuse of Authority: Police Officer Anthony Torres failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) said she did not receive a business card from any officer involved in this incident.

PO Torres said he did not provide § 87(2)(b) with a business card because she did not ask for one. He stated that after officers complete their tasks, if a civilian asks for a business card then officers are to provide them with one. PO Torres did not know if there are any circumstances in which an officer is supposed to provide his business card absent a request for one. PO Harris and Sgt. Jean-Pierre did not recall whether they provided § 87(2)(b) with a business card during this encounter.

PO Torres's BWC footage does not show any officer giving § 87(2)(b) their business card. The footage ends as PO Torres and PO Harris exit § 87(2)(b) apartment. Although Sgt. Jean-Pierre is still speaking to § 87(2)(b) when the BWC is turned off, surveillance footage from the hallway outside of § 87(2)(b) apartment does not suggest that any officer provides § 87(2)(b) with a business card after they exit the apartment.

NYC Administrative Code 14-174 [BR 14]. Identification of Police Officers requires officers to provide a business card at the conclusion of searches of homes.

PO Torres said he did not provide § 87(2)(b) with a business card and the video footage from this incident, coupled with § 87(2)(b) statement that she did not receive any business cards, suggests that neither Sgt. Jean-Pierre nor PO Harris provided her with a business card. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

#### Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Torres has been a member of service for 14 years and has been named as a subject in two other CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)
- PO Harris has been a member of service for 13 years and has been named as a subject in 16 other CCRB complaints and 32 allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Jean-Pierre has been a member of service for 13 years and has been named as a subject in two other CCRB complaints and two allegations, neither of which was substantiated. § 87(2)(g)

#### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim request was submitted to the New York City Office of the Comptroller on October 25, 2019, and will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]



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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date